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SENATE BILL 613

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ELECTIONS; CLARIFYING CERTAIN PROVISIONS IN THE
VOTER ACTION ACT; ALLOWING MORE TIME FOR DISTRIBUTIONS TO
CANDIDATES; LIMITING POLITICAL PARTY CONTRIBUTIONS TO CERTIFIED
CANDIDATES; CHANGING HOW INDEPENDENT EXPENDITURES AFFECT
MATCHING FUND DISTRIBUTIONS; REDUCING THE DISTRIBUTION AMOUNT
FOR UNCONTESTED GENERAL ELECTION CONTESTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-19A-2 NMSA 1978 (being Laws 2003,
Chapter 14, Section 2, as amended) is amended to read:

"1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

A. "applicant candidate" means a candidate who is
running for a covered office and who is seeking to be a
certified candidate in a primary or general election;

B. "certified candidate" means a candidate running

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1 for a covered office who chooses to obtain financing pursuant
2 to the Voter Action Act and is certified as a Voter Action Act
3 candidate;

4 C. "contested election" means an election in which
5 there are more candidates for a position than the number to be
6 elected to that position;

7 D. "covered office" means any office of the
8 judicial department subject to statewide elections and the
9 office of public regulation commissioner;

10 E. "election cycle" means the primary and general
11 elections for the same term of the same covered office,
12 beginning on the day after the last general election for the
13 office and ending with the general election; the primary
14 election cycle begins on the first day of the election cycle
15 and ends on the day of the primary election; the general
16 election begins on the day after the primary election and ends
17 on the day of the general election;

18 F. "fund" means the public election fund;

19 G. "noncertified candidate" means either a
20 candidate running for a covered office who does not choose to
21 participate in the Voter Action Act and who is not seeking to
22 be a certified candidate or a candidate who files a declaration
23 of intent to participate but who fails to qualify;

24 H. "political party" means an organization that is
25 qualified as a political party in New Mexico in accordance with

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1 the provisions of Section 1-7-2 NMSA 1978;

2 ~~[H-]~~ I. "qualifying contribution" means a donation
3 of five dollars (\$5.00) in the form of cash or a check or money
4 order payable to the fund in support of an applicant candidate
5 that is:

6 (1) made by a registered voter who is eligible
7 to vote for the covered office that the applicant candidate is
8 seeking;

9 (2) made during the designated qualifying
10 period and obtained through efforts made with the knowledge and
11 approval of the applicant candidate; and

12 (3) acknowledged by a receipt that identifies
13 the contributor's name and residential address on forms
14 provided by the bureau of elections and that is signed by the
15 contributor, one copy of which is attached to the list of
16 contributors and sent to the bureau of elections;

17 ~~[H-]~~ J. "qualifying period" means:

18 (1) for major party applicant candidates for
19 covered offices, the period beginning October 1 immediately
20 preceding the election year and ending at 5:00 p.m. on the
21 third Tuesday of March of the election year; and

22 (2) for independent and minor party
23 candidates, the period beginning February 1 of the election
24 year and ending that year at 5:00 p.m. on the filing date for
25 independent or minor party candidates for the office for which

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1 the candidate is running;

2 [J-] K. "secretary" means the secretary of state or
3 the office of the secretary of state; and

4 [K-] L. "seed money" means a contribution raised
5 for the primary purpose of enabling applicant candidates to
6 collect qualifying contributions and petition signatures."

7 Section 2. Section 1-19A-3 NMSA 1978 (being Laws 2003,
8 Chapter 14, Section 3) is amended to read:

9 "1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF
10 INTENT.--

11 A. A candidate choosing to obtain financing
12 pursuant to the Voter Action Act shall first file with the
13 secretary a declaration of intent to participate in that act as
14 an applicant candidate for a stated covered office. The
15 declaration of intent [~~shall~~] may be filed with the secretary
16 either prior to or during the qualifying period [~~according to~~]
17 on forms and in accordance with procedures developed by the
18 secretary.

19 B. An applicant candidate choosing to participate
20 in the Voter Action Act shall submit a declaration of intent
21 prior to collecting any qualifying contributions and make
22 explicit in the declaration that the candidate has complied
23 with and will continue to comply with that act's contribution
24 and expenditure limits and all other requirements set forth in
25 that act and rules issued by the secretary.

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1 C. A candidate shall not be eligible to become an
2 applicant candidate if the candidate has accepted any
3 qualifying contributions before filing a declaration of intent
4 pursuant to Subsection A of this section or has accepted any
5 other contributions totaling five hundred dollars (\$500) or
6 more or made expenditures totaling five hundred dollars (\$500)
7 or more between the beginning of the qualifying period and
8 filing a declaration of intent."

9 Section 3. Section 1-19A-6 NMSA 1978 (being Laws 2003,
10 Chapter 14, Section 6) is amended to read:

11 "1-19A-6. CERTIFICATION.--

12 A. Upon receipt of a final submittal of qualifying
13 contributions by an applicant candidate, the secretary shall
14 determine whether the applicant candidate has:

15 (1) signed and filed a declaration of intent
16 to obtain financing pursuant to the Voter Action Act in
17 accordance with the requirements of that act;

18 (2) collected and submitted the appropriate
19 number of qualifying contributions after filing a declaration
20 of intent;

21 (3) qualified as a candidate pursuant to other
22 applicable state election law;

23 (4) complied with seed money contribution and
24 expenditure restrictions; and

25 (5) otherwise met the requirements for

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1 obtaining financing pursuant to the Voter Action Act.

2 B. The secretary shall certify applicant candidates
3 complying with the requirements of this section as certified
4 candidates as soon as possible and no later than ten days after
5 final submittal of qualifying contributions and certification
6 as a candidate pursuant to other applicable state election law.

7 C. A certified candidate shall comply with all
8 requirements of the Voter Action Act after certification and
9 throughout the primary election and general election cycles. A
10 certified candidate who accepts public campaign finance funds
11 for the primary election shall comply with all the requirements
12 of the Voter Action Act for the remainder of the election cycle
13 in question, even if ~~[he]~~ the certified candidate decides not
14 to accept such funds for the general election."

15 Section 4. Section 1-19A-7 NMSA 1978 (being Laws 2003,
16 Chapter 14, Section 7, as amended) is amended to read:

17 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS
18 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

19 A. All money distributed to a certified candidate
20 shall be used for that candidate's campaign-related purposes in
21 the election cycle in which the money was distributed.

22 B. A certified candidate shall return to the fund
23 any amount that is unspent or unencumbered at the time that
24 person ceases to be a candidate before a primary or general
25 election for which the fund money was distributed.

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1 C. A certified candidate shall limit total campaign
2 expenditures and debts to the amount of money distributed to
3 that candidate from the fund. A certified candidate shall not
4 accept contributions or loans from any other source except [~~the~~
5 ~~certified candidate's~~] for in-kind contributions from a
6 political party, as specified in Section 1-19A-8 NMSA 1978.

7 D. A certified candidate shall return to the
8 secretary, within thirty days after the primary election, any
9 amount that is unspent or unencumbered by the date of the
10 primary election for direct deposit into the fund.

11 E. A certified candidate shall return to the
12 secretary, within thirty days after the general election, any
13 amount that is unspent or unencumbered by the date of the
14 general election for direct deposit into the fund."

15 Section 5. Section 1-19A-8 NMSA 1978 (being Laws 2003,
16 Chapter 14, Section 8) is amended to read:

17 "1-19A-8. POLITICAL PARTY [~~EXPENDITURES~~] IN-KIND
18 CONTRIBUTIONS TO CERTIFIED CANDIDATES.--

19 A. A certified candidate may accept [~~monetary or~~]
20 in-kind contributions from a political party; provided that the
21 aggregate [~~amount~~] value of such contributions from all
22 political [~~party committees~~] parties combined does not exceed
23 the equivalent of ten percent of the value of that candidate's
24 aggregate public financing per election cycle.

25 B. All in-kind contributions from a political party

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1 distributed to certified candidates shall be used for campaign-
2 related purposes.

3 C. Nothing in this section shall prevent political
4 party funds from being used for general operating expenses of
5 the party; conventions; nominating and endorsing candidates;
6 identifying, researching and developing the party's position on
7 issues; party platform activities; noncandidate-specific voter
8 registration; noncandidate-specific get-out-the-vote drives;
9 travel expenses for noncandidate party leaders and staff; and
10 other noncandidate-specific party building activities."

11 Section 6. Section 1-19A-9 NMSA 1978 (being Laws 2003,
12 Chapter 14, Section 9, as amended) is amended to read:

13 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

14 A. The secretary shall publish guidelines outlining
15 permissible campaign-related expenditures and penalties for
16 violations of the Voter Action Act by January 1, 2010.

17 B. Applicant candidates shall file a report listing
18 seed money contributions and expenditures with their
19 application for certification.

20 C. Applicant candidates shall file qualifying
21 contributions with the secretary during the qualifying period
22 according to procedures developed by the secretary. In
23 developing these procedures, the secretary shall use existing
24 campaign reporting procedures and deadlines whenever practical.

25 D. Certified candidates shall report expenditures

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1 according to the campaign reporting requirements specified in
2 the [~~Election Code~~] Campaign Reporting Act.

3 E. In addition to the campaign contribution and
4 expenditure reports specified in the [~~Election Code~~] Campaign
5 Reporting Act, all noncertified candidates who have as an
6 opponent a certified candidate shall report to the secretary
7 ten days before the primary and general elections the amount of
8 money spent by that noncertified candidate. This report shall
9 include all previously unreported transactions through 5:00
10 p.m. two days before the report is due.

11 F. A person or political committee that makes
12 expenditures to influence a race involving a certified
13 candidate shall report to the secretary the amount that person
14 or political committee has spent. These reports shall include
15 all previously unreported transactions through 5:00 p.m. two
16 days before the report is due, and shall be submitted as
17 follows:

18 (1) for the primary election, by 5:00 p.m. on
19 the second Monday in May, by 5:00 p.m. on the eleventh day
20 before the election and by 5:00 p.m. on the Thursday before the
21 election; and

22 (2) for the general election, by 5:00 p.m. the
23 first Tuesday in October, by 5:00 p.m. on the eleventh day
24 before the election and by 5:00 p.m. on the Thursday before the
25 election."

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1 Section 7. Section 1-19A-12 NMSA 1978 (being Laws 2003,
2 Chapter 14, Section 12) is amended to read:

3 "1-19A-12. TIMING OF FUND DISTRIBUTION.--

4 A. Beginning with the election cycle that ends with
5 the general election in 2006, the secretary shall distribute
6 money from the fund to certified candidates.

7 B. For a primary election certified candidate, the
8 secretary shall distribute the amount due to that certified
9 candidate for that covered office within [~~one week~~] ten
10 calendar days of certification.

11 C. For a candidate certified for the general
12 election, the secretary shall distribute the amount due to that
13 certified candidate for that covered office within [~~one week~~]
14 ten calendar days after the primary election or, for a minor
15 party or independent candidate, within [~~one week~~] ten calendar
16 days after certification of the candidate."

17 Section 8. Section 1-19A-13 NMSA 1978 (being Laws 2003,
18 Chapter 14, Section 13, as amended) is amended to read:

19 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

20 A. By August 1, 2007, the secretary shall determine
21 the amount of money to be distributed to each certified
22 candidate for the election cycle ending with the general
23 election in 2008, based on the type of election and the
24 provisions of Subsections B through F of this section.

25 B. For contested primary elections, the amount of

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1 money to be distributed to a certified candidate is equal to
2 the following:

3 (1) for the office of public regulation
4 commissioner, twenty-five cents (\$.25) for each voter of the
5 candidate's party in the district of the office for which the
6 candidate is running; and

7 (2) for the office of justice of the supreme
8 court and judge of the court of appeals, fifteen cents (\$.15)
9 for each voter of the candidate's party in the state.

10 C. For uncontested primary elections, the amount of
11 money to be distributed to a certified candidate is equal to
12 fifty percent of the amount specified in Subsection B of this
13 section.

14 D. For contested general elections, the amount of
15 money to be distributed to a certified candidate is equal to
16 the following:

17 (1) for the office of public regulation
18 commissioner, twenty-five cents (\$.25) for each voter in the
19 district of the office for which the candidate is running; and

20 (2) for the office of justice of the supreme
21 court and judge of the court of appeals, fifteen cents (\$.15)
22 for each voter in the state.

23 E. For uncontested general elections, except as
24 provided in Subsection I of this section, the amount of money
25 to be distributed to a certified candidate is equal to [fifty]

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1 ten percent of the amount specified in Subsection D of this
2 section. If a general election race that is initially
3 uncontested later becomes contested because of the
4 qualification of an independent or minor party candidate to
5 appear on the ballot for that race, an additional amount of
6 money shall be distributed to the certified candidate to make
7 that candidate's total distribution amount equal to the amount
8 distributed pursuant to Subsection D of this section.

9 F. Once the certification for candidates for the
10 primary election has been completed, the secretary shall
11 calculate the total amount of money to be distributed in the
12 primary election cycle, based on the number of certified
13 candidates and the allocations specified in this section. The
14 secretary shall increase the total amount by twenty percent to
15 provide funds for additional matching funds in the primary
16 election. The secretary shall also prepare an estimate of the
17 total amount of money that might be distributed in the general
18 election cycle. This estimate shall be increased by twenty
19 percent to provide funds for additional matching funds in the
20 general election. If the total amount to be distributed in the
21 primary election cycle, plus the added twenty percent and the
22 estimated total amount to be distributed in the general
23 election cycle, plus the added twenty percent, all taken
24 together, exceed the amount expected to be available in the
25 fund, the secretary shall allocate the amount available between

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1 the primary and general election cycles. This allocation shall
2 be based on the ratio of the two total amounts.

3 G. If the allocation specified in Subsection F of
4 this section is greater than the total amount available for
5 distribution, then the amounts to be distributed to individual
6 candidates, specified in Subsections B through E of this
7 section, shall each be reduced by the same percentage as the
8 reduction by which the total amount needed has been reduced
9 relative to the total amount available.

10 H. At least every two years after January 1, 2007,
11 the secretary shall evaluate and modify as necessary the dollar
12 values originally determined by Subsections B through E of this
13 section and shall consider and account for inflation in the
14 evaluations.

15 I. No money shall be distributed to candidates in
16 judicial retention elections. No money shall be distributed to
17 judicial candidates in uncontested general elections, provided
18 that if a general election race that is initially uncontested
19 later becomes contested, the certified judicial candidate shall
20 receive a distribution in accordance with Subsection D of this
21 section."

22 Section 9. Section 1-19A-14 NMSA 1978 (being Laws 2003,
23 Chapter 14, Section 14, as amended) is amended to read:

24 "1-19A-14. MATCHING FUNDS.--

25 A. When a certified or noncertified candidate has
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1 one or more opponents who are certified candidates and the
2 candidate's campaign finance report or group of reports shows
3 that the sum of the candidate's expenditures and obligations
4 made, or funds raised or borrowed, whichever is greater, alone
5 or in conjunction with expenditures made independently of the
6 candidate to influence the election on behalf of the candidate,
7 exceeds the amount distributed to an opposing certified
8 candidate, the secretary shall issue immediately to any
9 opposing certified candidate an additional amount equivalent to
10 the excess amount reported by the opposing candidate.

11 B. The amount of expenditures made independently of
12 a certified candidate to influence the election on behalf of
13 the candidate and the value of any in-kind contributions from a
14 political party shall be subtracted from any excess amount
15 reported by an opposing candidate when calculating the amount
16 of matching funds to be distributed to the certified candidate.

17 C. Total matching funds to a certified candidate in
18 an election are limited to twice the amount originally
19 distributed to that candidate pursuant to Section 1-19A-13 NMSA
20 1978."